

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

<b>DERRICK GIBSON,</b>	)	
	)	2:16cv392
Plaintiff,	)	<b>Electronic Filing</b>
	)	
v.	)	
	)	
<b>MARY FLEMING, et al.,</b>	)	
	)	
Defendants.	)	

**OPINION**

On April 5, 2016, pro se Plaintiff, Derrick Gibson, initiated this prisoner civil rights lawsuit alleging a series of incidents of misconduct, abuse and retaliation against him by current and former employees at SCI-Greene and SCI-Fayette. In accordance with the Magistrate Judge's Act, 28 U.S.C. § 636(b)(1), and Rules 72.C and 72.D of the Local Rules of Court for Magistrate Judges, all pretrial matters were referred to United States Magistrate Judge Cynthia Reed Eddy.

Defendants filed a motion to dismiss (ECF No. 63), to which Plaintiff filed a timely response in opposition (ECF Nos. 70 and 71).

On April 30, 2018, Magistrate Judge Eddy issued a Report and Recommendation (ECF No. 72) recommending that the Motion to Dismiss filed by Defendants be granted in part and denied in part. Specifically, it is recommended that the motion be granted as to (i) all claims against the Defendants in their official capacities; (ii) all claims alleging a separate standalone claim that Defendants filed false misconduct reports against Plaintiff; and (iii) all claims raised under the Fourteenth Amendment. It is also recommended that the motion be denied as to

Plaintiff's claims of retaliation, deliberate indifference to his serious medical needs, excessive force, failure to protect, and conspiracy. Service of the Magistrate Judge's Report and Recommendation was made on the parties, who were informed that, in accordance with the Magistrate Judge's Act, 28 U.S.C. § 636(b)(1)(B) and (C), and Local Rule of Court 72.D.2, Defendants had until May 14, 2018, (ECF users) and Plaintiff until May 17, 2018, (non-ECF users) to file written objections. The time has passed for filing objections and to date, no party has filed any objections to the report and recommendation or has any party sought an extension of time in which to do so.

After undertaking a *de novo* review of the pleadings and documents in this case, together with the Report and Recommendation, the Court finds that the Report and Recommendation should be adopted as the opinion of the Court. Accordingly, Defendants' motion to dismiss will be granted in part and denied in part and the Magistrate Judge's April 30, 2018, Report and Recommendation will be adopted as the opinion of the court.

An appropriate order will follow.

Date: June 4, 2018

s/ DAVID STEWART CERCONE  
David Stewart Cercone  
Senior United States District Judge

cc: Derrick Gibson  
JP 2190  
SCI Retreat  
660 State Route 11  
Hunlock Creek, PA 18621-3136  
(Via First Class Mail)

J. Eric Barchiesi, Esquire  
(Via CM/ECF Electronic Mail)